

STEVEN A. GIBSON, ESQ.

Nevada Bar No. 6656

sgibson@righthaven.com

J. CHARLES COONS, ESQ.

Nevada Bar No. 10553

ccoons@righthaven.com

JOSEPH C. CHU, ESQ.

Nevada Bar No. 11082

jchu@righthaven.com

Righthaven LLC

9960 West Cheyenne Avenue, Suite 210

Las Vegas, Nevada 89129-7701

(702) 527-5900

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-
liability company,

Plaintiff,

v.

SILVER MATRIX LLC, a Delaware limited
liability company; and JUSTIN BEECH, an
individual,

Defendants.

Case No.: 2:10-cv-01281

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Righthaven LLC (“Righthaven”) complains as follows against Silver Matrix LLC (“Silver Matrix”) and Justin Beech (“Mr. Beech”; collectively with Silver Matrix known herein as the “Defendants”), on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Silver Matrix is, and has been at all times relevant to this lawsuit, a Delaware limited liability company.

5. Silver Matrix is, and has been at all times relevant to this lawsuit, an owner of the Internet domain found at <dslreports.com> (the “Domain”), as identified by the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”).

6. Mr. Beech is, and has been at all times relevant to this lawsuit, identified by Mr. Beech’s LinkedIn page as an owner and operator of the Domain, evidence of which is attached hereto as Exhibit 1.

7. The Defendants are, and have been at all times relevant to this lawsuit, the self-proclaimed owners of the copyright(s) in the work(s) posted on the Website, as evidenced by a copyright notice displayed on the Website: “© 1999-2010 dslreports.com.”

JURISDICTION

8. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

9. Righthaven is the owner of the copyright in the literary work entitled: “Telecom groups run out of cash” (the “Work”), attached hereto as Exhibit 2.

10. At all times relevant to this lawsuit, the Work has depicted and depicts the original source publication as the Las Vegas *Review-Journal*.

11. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

1 12. On or about June 16, 2010, the Defendants displayed, and continue to display, an
2 unauthorized reproduction of the Work (the "Infringement"), attached hereto as Exhibit 3, on the
3 Website.

4 13. The subject matter, at least in part, of the Work and the Infringement, is the
5 bankruptcy filings of four Nevada-based telecommunications companies.

6 14. At all times relevant to this lawsuit, the Defendants knew that the Work was
7 originally published in the *Las Vegas Review-Journal*.

8 15. At all times relevant to this lawsuit, the Defendants knew that the Infringement
9 was and is of specific interest to Nevada residents.

10 16. The Defendants' display of the Infringement was and is purposefully directed at
11 Nevada residents.

12 17. The Defendants knew, or reasonably should have known, that websites, such as
13 the Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by
14 others of copyright-infringing content.

15 18. At all times relevant to this lawsuit, the Defendants did not institute any proactive
16 policy of precluding or attempting to preclude the posting by others of copyright-infringing
17 content on the Website.

18 19. At all times relevant to this lawsuit, the Defendants did not institute any proactive
19 policy of monitoring or attempting to monitor the posting by others of copyright-infringing
20 content on the Website.

21 20. At all times relevant to this lawsuit, the Defendants did not institute any proactive
22 policy of deleting or attempting to delete the posting by others of copyright-infringing content on
23 the Website.

24 21. At all times relevant to this lawsuit, the Defendants' failure to institute any
25 proactive policies intended to address the posting by others of copyright-infringing content on
26 the Website constituted and constitutes the Defendants' willful blindness to copyright
27 infringements occurring on the Website.

VENUE

22. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Nevada.

23. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(c), because Silver Matrix is subject to personal jurisdiction in Nevada.

24. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal jurisdiction in Nevada.

FACTS

25. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

26. Righthaven is the owner of the copyright in and to the Work.

27. The Work was originally published on June 16, 2010.

28. On July 21, 2010, the United States Copyright Office (the “USCO”) granted Righthaven the registration to the Work, copyright registration number TX0007177994 (the “Registration”) and attached hereto as Exhibit 4 is evidence of the Registration in the form of a printout of the official USCO database record depicting the occurrence of the Registration.

29. On or about June 16, 2010, the Defendants displayed, and continue to display, the Infringement on the Website.

30. The Defendants did not seek permission, in any manner, to reproduce, display, or otherwise exploit the Work.

31. The Defendants were not granted permission, in any manner, to reproduce, display, or otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

32. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 31 above.

33. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17 U.S.C. § 106(1).

34. Righthaven holds the exclusive right to prepare derivative works based upon the Work, pursuant to 17 U.S.C. § 106(2).

35. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to 17 U.S.C. § 106(3).

36. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17 U.S.C. § 106(5).

37. The Defendants reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).

38. The Defendants created an unauthorized derivative of the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).

39. The Defendants distributed, and continue to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).

40. The Defendants publicly displayed, and continue to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

41. Silver Matrix has willfully engaged in the copyright infringement of the Work.

42. Mr. Beech has willfully engaged in the copyright infringement of the Work.

43. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

44. Unless the Defendants are preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus

entitled to preliminary and permanent injunctive relief against further infringement by the Defendants of the Work, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

3. Direct Tucows, Inc., the current registrar, and any successor domain name registrar for the Domain to lock the Domain and transfer control of the Domain to Righthaven;

4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);

5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

1 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
2 law; and

3 7. Grant Righthaven such other relief as this Court deems appropriate.
4
5

6 **DEMAND FOR JURY TRIAL**

7 Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

8 Dated this twenty-ninth day of July, 2010.
9

10 RIGHTHAVEN LLC
11

12 By: /s/ Joseph C. Chu
13 STEVEN A. GIBSON, ESQ.
14 Nevada Bar No. 6656
15 J. CHARLES COONS, ESQ.
16 Nevada Bar No. 10553
17 JOSEPH C. CHU, ESQ.
18 Nevada Bar No. 11082
19 9960 West Cheyenne Avenue, Suite 210
20 Las Vegas, Nevada 89129-7701
21 Attorneys for Plaintiff
22
23
24
25
26
27
28